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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,598	08/13/2001	Marc Bolduc	G&C 30566.197-US-01	7530
55895	7590	11/01/2006	EXAMINER	
GATES & COOPER LLP HOWARD HUGHES CENTER 6701 CENTER DRIVE WEST, SUITE 1050 LOS ANGELES, CA 90045			EL CHANTI, HUSSEIN A	
			ART UNIT	PAPER NUMBER
			2157	

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/928,598	BOLDUC ET AL.	
	Examiner	Art Unit	
	Hussein A. El-chanti	2157	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/05</u>  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This action is responsive to amendment received on July 6, 2006. Claims 1, 8, 11, 18, 21 and 28 were amended. Claims 1-30 are pending examination.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 11 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The disclosure of the application does not show support for the negative limitation "not a modification of the rate at which recorded events in the clip unfold". Any negative limitation or exclusionary proviso must have basis in the original disclosure. If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) ("[the] specification, having described the whole, necessarily described the part remaining."). See also *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983), *aff'd mem.*, 738 F.2d 453 (Fed. Cir. 1984). The mere absence of a positive recitation is not basis for an exclusion.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Chui et al., U.S. Patent No. 5,600,373 (referred to hereafter as Chui).

As to claims 1, 8, 11, 18, 21 and 28, Chui teaches apparatus, method for viewing image data, comprising:

(a) display means (see col. 29 lines 40-55);

(b) network connecting means for transferring frames of said image data over a network from a remotely connected frame source, wherein: (i) said image data comprises a plurality of image frames and has a frame rate from which may be inferred a due time for display of each frame in a sequence of frames in said image data; (ii) said frame source returns a frame in response to a frame request issued over said network (see col. 29 lines 40-55, the frames are displayed according to a sequence); and

(c) processing means configured to play a clip by:

(i) displaying selected frames from said frame source, on said display means, at their due time by skipping frames in said frame sequence in response to an indication of

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the data transfer rate of said network so that a loss of the network bandwidth availability results in degradation in smoothness of the clip, not a modification of the rate at which recorded events in the clip unfold (see col. 29 lines 40-55, video is displayed in real time, some frames are skipped).

As to claims 2 and 22, Chui teaches apparatus according to claims 1 and 21, wherein said indication of the data transfer rate is provided by a comparison of the relative position of an input and an output pointer in a queue of frames that have been selected for display (see col. 29 lines 57-67).

As to claims 3 and 23, Chui teaches apparatus according to claim 1, wherein said frame source includes means for storing pre-rendered image frames (see col. 29 lines 40-55).

As to claims 4 and 24, Chui teaches apparatus according to claim 1, wherein said frames are skipped in response to a prediction of a network data transfer rate (see col. 29 lines 57-67).

As to claims 5 and 25, Chui teaches apparatus according to claim 1, wherein frames are prefetched into a frame queue prior to their due time (see col. 29 lines 40-55).

As to claims 6 and 26, Chui teaches apparatus according to claim 1, wherein a frame skip rate is defined by a user (see col. 28 lines 37-60).

As to claims 7 and 27, Chui teaches apparatus according to claim 1, wherein a frame is selected for display by processing its due time with elapsed real time since playback started (see col. 27 lines 52-67).

As to claim 9, Chui teaches apparatus according to claim 8, wherein said frame timing parameter is the due time for a frame (see col. 29 lines 40-55).

As to claim 10, Chui teaches apparatus according to claim 8, wherein instructions for the processing means are executed as multiple threads (see col. 29 lines 40-55).

As to claim 12, Chui teaches a method according to claim 11, wherein said indication of the data transfer rate is provided by a comparison of the relative position of an input and an output pointer in a queue of frames that have been selected for display (see col. 29 lines 40-55).

As to claim 13, Chui teaches a method according to claim 11, wherein said frame source includes means for storing pre-rendered image frames (see col. 29 lines 40-55).

As to claim 14, Chui teaches a method according to claim 11, wherein said frames are skipped in response to a prediction of a network data transfer rate (see col. 29 lines 40-55).

As to claim 15, Chui teaches a method according to claim 11, wherein frames are prefetched into a frame queue prior to their due time (see col. 29 lines 40-55).

As to claim 16, Chui teaches a method according to claim 11, wherein a frame skip rate is defined by a user (see col. 29 lines 40-55).

As to claim 17, Chui teaches a method according to claim 11, wherein a frame is selected for display by processing its due time with elapsed real time since playback started (see col. 29 lines 40-55).

As to claim 19, Chui teaches a method according to claim 18, wherein said frame timing parameter is the due time for a frame (see col. 29 lines 40-55).

As to claim 20, Chui teaches a method according to claim 18, wherein instructions for the processing means are executed as multiple threads (see col. 29 lines 40-55).

As to claim 29, Chui teaches a data structure according to claim 28, wherein said frame timing parameter is the due time for a frame (see col. 27 lines 52-67).

As to claim 30, Chui teaches a data structure according to claim 28, wherein instructions for steps (a) to (e) will be executed as multiple threads (see col. 29 lines 40-55).

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hussein A. El-chanti whose telephone number is (571)272-3999. The examiner can normally be reached on Mon-Fri 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hussein El-chanti

Oct. 27, 2006

  
ARIO ETIENNE  
PATENT EXAMINER